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Chairman: Mr. Belinga-Eboutou ..... (Cameroon)

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The meeting was called to order at 3.15 p.m.

Agenda item 113: Promotion and protection of the rights of children (*continued*) (A/C.3/58/L.29/Rev.1)

Draft resolution A/C.3/58/L.29/Rev.1: Rights of the child

1. **Mr. De Barros** (Secretary), with regard to the financial provisions relating to the draft resolution, said that under paragraph 7, the General Assembly would inter alia request the Secretary-General to provide the special rapporteurs and special representatives of the United Nations system with appropriate staff and facilities from the United Nations regular budget in accordance with their respective mandates, and that pursuant to paragraph 50 (f), the General Assembly would inter alia request the Secretary-General to ensure the provision of appropriate staff and facilities from the United Nations regular budget for the functions of the Committee on the Rights of the Child. Provisions for the activities of the special rapporteurs and representatives of the United Nations system and the Committee on the Rights of the Child had already been included in the programme budget for the current biennium as well as the proposed programme budget for the biennium 2004-2005. He drew the attention of the Committee to part B, section VI of General Assembly resolution 45/248, in which the General Assembly reaffirmed that administrative and budgetary matters fell under the authority of the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

2. Pursuant to paragraphs 50 (d) and (e), the General Assembly would request inter alia the independent expert for the United Nations study on violence against children to conduct the study as soon as possible, would invite Member States, United Nations bodies and organizations, including the Committee on the Rights of the Child, as well as other relevant intergovernmental organizations, to provide substantive and, where appropriate, financial support for that study and would invite the independent expert to present an oral progress report to the General Assembly at its fifty-ninth session. It was the understanding of the secretariat that activities related to the study on violence against children would be financed from extrabudgetary resources.

3. **Ms. Borzi Cornacchia** (Italy), speaking on behalf of the European Union and the acceding countries, the Group of Latin American and Caribbean States and the other sponsors, stressed the importance of the draft resolution in reaffirming the commitment of the international community to defend the rights of children. The text before the Committee reflected the sponsors' efforts to accommodate the concerns of as many delegations as possible. Although compromises had been necessary, she hoped that the draft resolution would enjoy a broad consensus, as it had in the past. She regretted that the delegations of Antigua and Barbuda, Barbados and Guyana wished to withdraw their names from the list of sponsors.

4. **The Chairman** said that Albania, Bhutan, Bolivia, Burundi, El Salvador, Ethiopia, Fiji, Gabon, Japan, Kazakhstan, Lesotho, Mauritius, Mongolia, Morocco, Nepal, New Zealand, the Russian Federation, Rwanda, Switzerland, Thailand, Uzbekistan, Zambia and Zimbabwe had joined the list of sponsors.

5. **Ms. Tang** (Singapore) said she agreed that the draft resolution was an important one but regretted that the sponsors had not been able to take into account the concerns of her delegation with regard to paragraph 26 (b), which was not in keeping with the provisions of the Convention on the Rights of the Child; she also believed that the words "corporal punishment" had no place in paragraph 41 (c). Her delegation therefore requested recorded votes on paragraph 26 (b) and on the inclusion of the words "corporal punishment" in paragraph 41 (c) and would vote against in both cases.

6. **Ms. Bend** (Barbados) regretted that her delegation had been obliged to withdraw its sponsorship of the draft resolution. Unfortunately, the text contained elements about which there was no international consensus. Her delegation's decision to remove its name from the list of sponsors should not however be misconstrued as a lack of support for the main thrust of the resolution or for the need to protect the rights of the child.

7. **Mr. Critchlow** (Guyana) likewise regretted that his delegation had been forced to remove its name from the list of sponsors because the text of the draft resolution referred to issues such as corporal punishment about which there was no international consensus. His delegation nevertheless remained committed to the promotion and protection of the rights of children.

8. *A recorded vote was held on paragraph 26 (b).*

9. **Ms. Sonaike** (Nigeria), speaking in explanation of vote before the voting, said her delegation would vote against the retention of paragraph 26 (b). Corporal punishment was accepted in Nigerian culture and was an integral part of the educational system. It was not seen as an attack on the rights of children and there was no proof that it had lasting psychological effects on children.

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Indonesia, Ireland, Italy, Japan, Jordan, Kazakhstan, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malawi, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Niger, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Antigua and Barbuda, Barbados, Botswana, Guyana, Malaysia, Nigeria, Sierra Leone, Singapore, United Republic of Tanzania, United States of America.

Abstaining:

Bahamas, Bahrain, Bangladesh, Benin, Brazil, Brunei Darussalam, Democratic Republic of the Congo, Gambia, India, Israel, Jamaica, Kenya, Madagascar, Myanmar, Oman, Pakistan, Republic of Korea, Saint Lucia, Saudi Arabia, Sudan, Togo, Uganda, United Arab Emirates.

10. *Paragraph 26 (b) was retained by 119 votes to 10, with 22 abstentions.**

11. **Mr. Rowe** (Sierra Leone) said his delegation had voted against paragraph 26 (b) in accordance with the opinion of the Commission on Human Rights that there were different degrees of corporal punishment. Corporal punishment could not automatically be considered to be violence against children when used as an instrument of discipline.

12. A recorded vote was held on the inclusion of the words "corporal punishment" in paragraph 41 (c).

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Jordan, Kazakhstan, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, Ukraine,

* The delegations of Brazil and Suriname subsequently informed the Committee that they had intended to vote in favour.

United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Malaysia, Pakistan, Sierra Leone, Singapore, Suriname, United Republic of Tanzania.

Abstaining:

Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Botswana, Brunei Darussalam, Democratic Republic of the Congo, Gambia, Guyana, India, Israel, Jamaica, Kenya, Myanmar, Oman, Saint Lucia, Saudi Arabia, Senegal, Togo, Uganda, United Arab Emirates, United States of America.

13. *The words "corporal punishment" in paragraph 41 (c) were retained by 123 votes to 6, with 24 abstentions.**

14. **Mr. Kweon** Ki-hwan (Republic of Korea), referring to paragraph 26 (b), said that different circumstances required different approaches. Corporal punishment administered in a clear and firm manner could be necessary in the context of the formal education system and his Government had established rigorous and transparent guidelines for that purpose. His delegation had therefore abstained during the vote on paragraph 26 (b). Consequently, it had been unable to sponsor the draft resolution.

15. With regard to the words "corporal punishment" in paragraph 41 (c), his delegation was of the opinion that detention was a sufficiently severe form of punishment. In a situation where detainees were isolated from society, there was potential for abuse or misuse of authority and clear standards were necessary for the protection of the human rights of detainees. His Government had banned the use of corporal punishment in correctional facilities hence his delegation had voted to retain the words "corporal punishment" in paragraph 41 (c).

16. **Mr. Andrabi** (Pakistan) said that although his delegation had long been a defender of the human rights of children, it had abstained with regard to paragraph 26 (b) and had voted against the words "corporal punishment" in paragraph 41 (c); it had therefore been unable to become a sponsor of the draft resolution. Corporal punishment was legal in Pakistan, although not for juveniles; corporal punishment was discouraged in schools but was not expressly forbidden. His delegation nevertheless supported the overall thrust of the resolution and would vote in favour of it in accordance with its commitment to the protection of the rights of children.

17. **Ms. Naz** (Bangladesh) said her delegation had always been a strong defender of the human rights of children. Her Government had for example been among the first signatories to the Convention on the Rights of the Child and its Optional Protocols. Although her delegation had traditionally joined in sponsoring the draft resolution on the rights of the child, the sponsors had not been able to reflect her delegation's concerns in the current text and it was therefore unable to sponsor the draft resolution as it stood. She nevertheless wished to make clear her delegation's commitment to the protection of all the human rights of children everywhere.

18. **Ms. Ahmed** (Sudan) said that, as one of the first signatories of the Convention and an active participant in the special session on children, the Sudan regretted that it could not sponsor the draft resolution as it had done in previous years. It had suggested amendments to a number of paragraphs in the interests of adding balance to the draft, but they had been found unacceptable. The main fault in the resolution lay in its neglect of the holistic approach: only children's rights were mentioned, not their well-being, even though the latter was highlighted in the Convention. Too little stress had been laid on social development. It was also regrettable that negotiations on the text had started very late.

19. **Ms. Khalil** (Egypt) said that her delegation shared the concerns expressed by the previous speaker.

20. **Ms. Astanah Banu** (Malaysia) said that her delegation had submitted written proposals to the main sponsors of the draft resolution with a view to strengthening and streamlining it by eliminating unnecessary repetition of the language and content of the Convention, but the final text did not reflect the concerns that had been raised. Although Malaysia's commitment to the promotion and protection of children's rights was beyond question, her delegation could not sponsor the draft resolution as it stood. It would, however, vote in favour of the draft resolution in tribute to its spirit or intention.

* The delegation of Suriname subsequently informed the Committee that it had intended to vote in favour.

21. **Mrs. Sonaike** (Nigeria) said that, despite having voted against the inclusion of paragraph 26 (b), her delegation would vote for the draft resolution as a whole.

22. *At the request of the delegation of the United States of America, a recorded vote was taken on draft resolution A/C.3/58/L.29/Rev.1 as a whole.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

United States of America.

Abstaining:

None.

23. *Draft resolution A/C.3/58/L.29/Rev.1 was adopted by 159 votes to 1, with no abstentions.*

24. **Ms. Tang** (Singapore) said that her country had an excellent record on the provision of education, health and security for its children. Sovereign States had a right, however, to deal in their own way with discipline at home, at school and in penal institutions. Her delegation respected the views of those countries which believed that no form of physical chastisement was permissible, but the international community should not seek to micromanage States' affairs without considering the particular circumstances of each society. As for the provisions urging States to review reservations, the Vienna Convention on the Law of Treaties recognized the existence of permissible and impermissible reservations; under article 19 of the Convention, they were permissible unless incompatible with the object and purpose of the treaty concerned. It was therefore inappropriate for the draft resolution to call for a review of such reservations with a view to withdrawing them. The purpose of reservations was to enable as many countries as possible to accede to international treaties, and the trend on the part of some delegations of discouraging reservations would only discourage accession to the treaties themselves.

25. **Ms. Corkery** (United States of America), after welcoming the widespread interest in the welfare of children, expressed appreciation of the contribution made by many delegations to the measures to enhance the quality of children's lives. In framing the draft resolution, however, a more transparent and inclusive process would have been desirable; it was not appropriate for small groups to meet in closed session before — or in the early weeks of — the General Assembly and then to emerge relatively late with a lengthy and detailed text to which they were reluctant to allow changes. She welcomed the fact that the text incorporated wording from Commission on Human Rights resolution 2003/86 concerning parent-child contacts, the role of both parents and the right of both parents to have access to the child, but not enough account had been taken of the sovereign right of States

to determine, through legitimate democratic processes, whether or not to ratify the Convention. Her delegation would therefore have preferred the following wording for paragraph 1: "*Urges* States that have not yet done so to consider as a matter of priority signing and ratifying or acceding to the Convention on the Rights of the Child and its Optional Protocols and urges States Parties to implement them fully, while stressing that the implementation of the Convention and its protocols contributes to the achievement of the goals of the World Summit for Children and the special session of the General Assembly on children". Nor could her delegation accept that any one treaty could constitute the exclusive standard for defining and protecting children's rights. Although her Government had a vast array of domestic legislation to that end and had ratified the two Optional Protocols, as well as being party to the International Labour Organization Worst Forms of Child Labour Convention, 1999 (No. 182), the Convention on the Rights of the Child as a whole gave rise to concern under the United States system of federalism, as far as education, health and criminal justice were concerned. The separate states and local governments of the United States also set a different balance between the rights of children and the authority of parents. Her delegation would therefore have preferred to replace the second preambular paragraph by the agreed language adopted at the special session on children, which appeared as paragraph 29 of the document entitled "A world fit for children".

26. Concerning the death penalty for juvenile offenders, it was ultimately for States to decide themselves in accordance with their judicial and legislative process. The United States commitment to the rule of law meant that her delegation would have preferred to see, in place of the existing text of paragraph 41 (a), paragraph 44, subparagraph 8, of the document "A world fit for children", which could have acted as the basis of consensus. It would also have preferred to see the deletion of the references in paragraphs 8 and 44 to the International Criminal Court. She hoped that consensus could be achieved at the fifty-ninth session.

27. **Mr. Alaei** (Islamic Republic of Iran) said that his delegation had voted for the draft resolution on the basis of its general thrust. The text suffered, however, from an imbalance which should be rectified at future sessions.

28. **Ms. Borzi Cornacchia** (Italy), speaking on behalf of the European Union and the acceding countries, expressed regret at the suggestion that sponsors' meetings had not been inclusive. At least eight informal meetings had been held and every effort had been made to take every delegation's concerns into account. Flexibility had been harder to achieve only after the third reading of the text.

29. **Ms. Khalil** (Egypt) said that sponsors' meetings were usually held before open negotiations. In the current case, the eight meetings referred to had been held towards the end of the session, with the result that it had been necessary to extend the deadline for the submission of draft resolutions and a large element of flexibility had been lost.

30. **Ms. Astanah Banu** (Malaysia) said that, although the informal meetings might have been open and transparent, the concerns of many delegations had not been addressed.

Draft resolution (A/C.3/58/L.23/Rev.1): Importance of the role of parents in the care, development and well-being of children

31. **Ms. Al Haj Ali** (Syrian Arab Republic) said that, in the vote on whether the Committee should proceed with a decision on the draft resolution, her delegation had intended to vote in favour. The voting figures should therefore be amended.

32. **Ms. Elisha** (Benin) said that, in view of her delegation's request for a suspension of the meeting before the vote on the draft resolution, it would be preferable to annul the vote altogether and make a fresh start.

33. **The Chairman** said that the Committee would revert to the issue in due course.

Agenda item 115: Elimination of racism and racial discrimination: (*continued*)

(b): Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*)

Draft resolution A/C.3/58/L.34: World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

34. **The Chairman** invited the Secretary of the Committee to read out an oral statement by the Director of the Programme Planning and Budget Division concerning the programme budget implications of the draft resolution.

35. **Mr. De Barros** (Secretary of the Committee) noted that in paragraph 11, the draft resolution called for additional resources from the United Nations regular budget to enable the Committee to discharge its mandate fully. By paragraph 37, the General Assembly would stress the need to ensure adequate financial and human resources, including through the regular budget of the United Nations, for the Office of the High Commissioner for Human Rights to carry out its responsibilities efficiently in the implementation of the Durban Programme of Action. By paragraph 38, the Assembly would inter alia call on the Office of the High Commissioner for Human Rights to accord priority to the work of the Anti-Discrimination Unit, including its proper and permanent staffing. The General Assembly had appropriated, for the biennium 2002-2003, the amount of $47,576,300 under section 24, Human rights. The proposed programme budget of $53,540,400 for the biennium 2004-2005 included a provision of $694,400 for the Committee on the Elimination of Racial Discrimination and $1,126,400 for the Durban Programme of Action.

36. He drew the attention of the Committee to the provision of part B, section VI of General Assembly resolution 45/248, in which the General Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions.

37. By paragraph 49, the Assembly would request the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its fifty-ninth session. The mandate of the Special Rapporteur would fall under the category of activities considered to be of a perennial nature. Provisions for activities of that nature had already been included in the programme budget for the current biennium and in the proposed programme budget for the biennium 2004-2005. Hence, no additional appropriation would be required as a result of the adoption of the draft resolution.

38. **Mr. Kadiri** (Morocco) said that after submitting draft resolution A/C.3/58/L.34, the Group of 77 and China had met informally several times to discuss with colleagues all their proposals and try to reach consensus. The sponsors had responded favourably to most of the proposals, as could be seen in the revised text circulated at the preceding meeting. The following revisions should be made to that text: the last preambular paragraph should be deleted. Paragraph 31 should be revised to read: "Welcomes the inaugural session of the group of independent eminent experts, held in Geneva from 16 to 18 September 2003, with the participation of representatives of Member States, the United Nations system and civil society and notes its substantive outcome, and, in this context, requests the High Commissioner for Human Rights to examine the possibility of the development of a racial equality index as proposed by the group of independent eminent experts and to report thereon to the Commission on Human Rights." He said that Mexico had become a sponsor of the draft resolution.

39. **Mr. Cavallari** (Italy), speaking on behalf of the European Union, requested a separate vote on paragraph 31 of the draft resolution contained in document A/C.3/58/L.34 as revised in the document distributed at the preceding meeting and orally revised by the representative of Morocco. The European Union had engaged in negotiations on the draft resolution in a desire to maintain the consensus achieved in Durban and the broad agreement reached at the fifty-seventh session of the General Assembly. The European Union appreciated the efforts of Morocco and the other sponsors to take on many of the European proposals; however, some essential elements of the European Union's suggestions, which had been aimed at bringing the language closer to the commitments undertaken in Durban, were not reflected in the text of the draft resolution. In particular, the European Union continued

to have difficulties with paragraph 31 as it stood in the document currently before the Committee. The European Union was fully committed to the implementation of the Durban Declaration and Programme of Action and would abide by its undertaking to follow up the action taken at Durban and subsequently elaborated at the fifty-seventh session of the General Assembly. The European Union agreed on the idea of examining the possibility of assessing inequality based on race, colour, descent, national or ethnic origin. Nonetheless, it could not accept without strong reservations the use of a racial equality index, as that would be contrary to the legislations of many of its members. Other less controversial methods of assessment could be applied to that sensitive issue, and in the course of the negotiations, the European Union had proposed some minor drafting changes. Since no agreement had been reached, he asked for the deletion of paragraph 31.

40. While regretting that it had not been able to agree on all the proposals made, the European Union recognized that many of its suggestions were reflected in the draft resolution. Consequently, although it had opposed part of the text, it would be able to support the draft resolution as a whole. In recognition of the efforts of all parties to cooperate on such a major issue, the European Union hoped that, in accordance with the Chairman's ruling of the previous week, it would be possible to adopt the draft resolution as a whole without a vote. The European Union reiterated its firm will to cooperate with all delegations in combating racism and racial discrimination and looked forward to continued discussion of its proposal with a view to restoring consensus.

41. **Mr. Fox** (United States of America) requested a recorded vote on the draft resolution as a whole.

42. **Mr. Kadiri** (Morocco) said that his delegation regretted the fact that a vote had been requested on the draft resolution. In reply to the concerns raised by the representative of Italy, he said that a recommendation on the question of the racial equality index had been included in the outcome document of the inaugural session of the group of independent eminent experts, held in Geneva in September 2003. That was why the draft resolution now before the Committee included a request to the High Commissioner for Human Rights to examine the possibility of the development of a racial equality index and to report to the Commission on Human Rights. He called on all colleagues to vote for the paragraph and for the resolution as a whole.

43. At the request of the representative of Italy, a recorded vote was taken on paragraph 31.

In favour:

Algeria, Angola, Antigua and Barbuda, Argentina, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Lithuania, Luxembourg, Malta, Monaco, Netherlands, Poland, Portugal, Republic of Korea, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Armenia, Iceland, Kazakhstan, Liechtenstein, New Zealand, Norway, Switzerland, Ukraine.

44. *Paragraph 31 was adopted by 105 votes to 40, with 8 abstentions.*

45. At the request of the representative of the United States of America, a recorded vote was taken on draft resolution A/C.3/58/L.34 as a whole.

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Australia, Canada.

46. *Draft resolution A/C.3/58/L.34 was adopted by 155 votes to 2, with 2 abstentions.*

47. **Mr. Fox** (United States of America) said that his delegation had not been able to join consensus on the draft resolution. However, it appreciated the fact that the sponsors had continued to recognize the persistent problems of anti-Semitism and Islamophobia, a subject on which the Special Rapporteur had commented at length in his interim report. The United States remained committed to combating racism, racial discrimination, xenophobia and related intolerance wherever they occurred.

48. **Ms. Kleitman** (Israel) said that the events that had transpired in Durban had constituted an affront not only to Israel and the Jewish people but to anyone who valued the true objectives of national efforts to combat racism and racial discrimination. Indeed, the hijacking of the Durban Conference in order to isolate and attack the State of Israel had done a great disservice to those who would have benefited from genuine action against racism. Instead of contributing to the efforts of the international community to eliminate racism and racial discrimination, the proceedings at Durban had represented a decisive step backwards. Certain delegations and NGOs had aggravated the situation by singling out one country for hatred, slander and defamation. Her delegation further regretted that the Palestine-Israel conflict had been repeatedly invoked at the Durban Conference. That conflict was not a racial one but rather a political and territorial conflict that had absolutely no place in a conference dealing with racism. It was a conflict involving two peoples, both with rights, grievances and aspirations, which could be resolved only by a renunciation of violence and a commitment to negotiations conducted in a spirit of compromise and mutual recognition.

49. Her delegation also regretted that in the course of consultations on resolution A/C.3/58/L.34, certain delegations had sought to eliminate any reference to anti-Semitism at a time when there was a worrisome

surge in attacks against Jews and Jewish institutions in various parts of the world.

50. Notwithstanding her delegation's opposition to the draft resolution, she wished to be perfectly clear in stating that Israel fully supported national efforts aimed at the eradication of racism and racial discrimination and related forms of intolerance. In the past, that heinous phenomenon had visited upon the Jewish people the most horrible acts of genocide in history, including the Holocaust, in which fully a third of the Jewish people had been brutally exterminated. It was precisely because of its opposition to racism that Israel could not support the outcome of the Durban Conference. Israel was committed to the unrealized goals of the Conference and was deeply disappointed that those values had been so shamefully trampled upon. It was Israel's conviction that all nations must stand together in confronting intolerance, xenophobia and racism by means of education, legislation and public awareness, until such a time as true tolerance for one's fellow man became a foundation of all societies in the world.

51. **The Chairman** suggested that the Committee should decide to recommend to the General Assembly that it should take note of the following documents: Report of the Committee on the Elimination of Racial Discrimination (A/58/18) and Note by the Secretary-General transmitting the report of the United Nations High Commissioner for Human Rights on the comprehensive implementation of and follow-up to the World Conference Against Racism, Racial Discrimination, Xenophobia and related Intolerance (A/58/324).

52. *It was so decided.*

53. **Mr. Fox** (United States of America) said it was his understanding that the Committee took note of all reports considered at the present meeting consistent with General Assembly decision 55/488.

Agenda item 117: Human rights questions (*continued*)

(b): Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

54. **The Chairman** suggested that the Committee should decide to recommend to the General Assembly that it should take note of the following documents: Report of the Human Rights Committee (A/58/40 (Suppl.)), Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/58/306), Report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/58/326) and Note by the Secretariat containing the report of the chairpersons of the human rights treaty bodies on their fifteenth meeting, held in Geneva from 23 to 27 June 2003 (A/58/350).

55. *It was so decided.*

Draft resolution A/C.3/58/L.71: Protection of human rights and fundamental freedoms while countering terrorism

56. **The Chairman** invited the Committee to consider the draft resolution which the Secretariat had informed him would have no financial implications.

57. He said that Bosnia and Herzegovina, Bulgaria, Croatia, Egypt, Ecuador, Estonia, the former Yugoslav Republic of Macedonia, Honduras, Lithuania, Malta, Panama, Romania, Saint Vincent and the Grenadines, Suriname and Ukraine had become sponsors of the draft resolution.

58. **Mr. De Alba** (Mexico) said that El Salvador, Japan, Sudan and Timor-Leste had become sponsors of the draft resolution. Spain should be deleted from the list of sponsors shown in the original text of the draft resolution.

59. A number of revisions had been made to the original text of the draft resolution. In order to save time, he would not read them out; members should refer to the printed text that had just been distributed in the meeting room. The changes were essentially the same as those appearing in the compromise text which the Mexican delegation had distributed among all delegations on 21 November 2003. In the informal document circulated by his delegation, the paragraphs that had been changed with respect to the original text of draft resolution A/C.3/58/L.71 were highlighted in bold font. In-depth negotiations had been held on certain paragraphs, particularly paragraphs 6, 10 and 11. Those texts were essentially the same as the ones circulated on 21 November 2003, except that the word "Also" had been added at the beginning of paragraph 10.

60. The draft resolution was important because it was crucial that the United Nations should once again take a stand for the protection of human rights in the fight against terrorism. The issue was undoubtedly a sensitive one, and both sides had had to make concessions. The sponsors had made every effort to maintain consensus on the text without compromising the central objective of the draft resolution. He thanked all delegations for their constructive approach to the negotiations.

61. **The Chairman** said that Albania, Bolivia and Ethiopia had become sponsors of the draft resolution. He informed the Committee that the representative of India had requested a separate vote on paragraphs 10 and 11.

62. **Mr. Moutari** (Niger) said it was regrettable that the most recent version of the text before the Committee was available only in English.

63. **Mr. De Alba** (Mexico) said he regretted the fact that the most recent revisions had not been available in all the official languages, but noted that the original draft resolution had been distributed in all the languages. It had not been possible for the revisions to be translated in time for the Committee to take action on them.

64. His delegation deeply regretted the decision by India to request a separate vote on a couple of paragraphs that dealt with just one point. The only matter mentioned by those paragraphs was the advisability of carrying out a study the results of which were in no way being prejudged. The paragraph had been discussed at length, and the sponsors had been confident that there would be no problem with the wording. No alternative wording had been proposed; there had merely been a request for its deletion. He hoped that the request for a separate vote would not cause anyone to question the commitment of all Member States to the purpose of the draft resolution, which was to protect human rights in the fight against terrorism. If the delegation of India did not expressly request a vote on the resolution as a whole, it might still be possible to adopt it without a vote. If that was not the case, he hoped that the draft resolution could be adopted by consensus when it was considered by the plenary.

65. **Mr. Gopinathan** (India), speaking in explanation of vote before the voting, said that the changes introduced in the current year's text would result in a departure from the consensus achieved the previous year. Draft resolution A/C.3/58/L.71 did not adequately reflect the idea that, in many cases, terrorism posed a severe challenge to democracy, civil society and the rule of law and it contained no mention of the gross violations of human rights perpetrated by terrorists, in particular their negation of the most fundamental human right, the right to life. He recalled article 30 of the Universal Declaration of Human Rights and, in that context, reaffirmed his Government's commitment fully to respect human rights while combating terrorism.

66. Turning to paragraphs 10 and 11 of the draft resolution, he drew attention to the fact that the action requested of the High Commissioner for Human Rights in paragraph 10 was subsumed in the mandate given to the High Commissioner in paragraph 9, a mandate which had to offer sufficient flexibility for the optimization of resources. Moreover the High Commissioner had been instructed to perform the very same tasks only one year earlier and the Commission on Human Rights had not yet considered the High Commissioner's examination of the question of the protection of human rights and fundamental freedoms while countering terrorism. Similarly, the draft resolution ignored both the work being done by the Special Rapporteur on terrorism and human rights of the Subcommission on the Promotion and Protection of Human Rights and the Subcommission's decision in its resolution 2003/15 further to study the compatibility of counter-terrorism measures with international human rights standards. For those reasons it was premature to embark on any further investigation of the topic. In addition, the financial implications of the proposed study had not been established, and the Office of the High Commissioner for Human Rights was faced with serious constraints on its resources. The Office should therefore concentrate on the provision of technical cooperation and advisory services to requesting States and on capacity building.

67. As for paragraph 11, the sponsors had not supplied any convincing reasons for an accelerated time frame for consideration of the proposed study by the Commission on Human Rights at its sixtieth session. Paragraph 11 had the effect of marginalizing and bypassing the Commission, which should be the first body to which the High Commissioner should report. His Government therefore called for a separate vote on paragraphs 10 and 11. It would vote against

those paragraphs and abstain on the resolution as a whole.

68. **Ms. Menéndez** (Spain), said that, while countering terrorism was a top priority, it was, at the same time, necessary to respect the rule of law and international human rights standards. Her Government abided by those precepts in its daily battle with a scourge which had been growing throughout the world in recent years.

69. Any study of terrorism from the standpoint of human rights should take into account the tragic reality of terrorism's impact on victims, who should not be relegated to oblivion, since it was they who suffered most from the consequences of terrorist acts, methods and practices The text failed to bear that aspect in mind. Consequently, while her delegation would vote in favour of paragraphs 10 and 11 and of the draft resolution as a whole, it was unable to sponsor it.

70. *At the request of the representative of India, a recorded vote was taken on paragraphs 10 and 11 of draft resolution A/C.3/58/L.71.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burundi, Cambodia, Cameroon, Canada, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Spain, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

India.

Abstaining:

Australia, Benin, Burkina Faso, China, Democratic Republic of the Congo, Gambia, Ghana, Israel, Kenya, Myanmar, Philippines, Rwanda, South Africa, Togo, United States of America.

71. *Paragraphs 10 and 11 of draft resolution A/C.3/58/L.71 were adopted by 136 votes to 1, with 15 abstentions.*

72. *A recorded vote was taken on draft resolution A/C.3/58/L.71 as a whole.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand,

Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

None.

Abstaining:

India.

73. *Draft resolution A/C.3/58/L.71, as orally revised, was adopted by 157 votes to none with 1 abstention.*

74. **Mr. Amorós Núñez** (Cuba) said that, although his Government welcomed Mexico's initiative and its efforts to incorporate in the draft resolution all the suggestions made by delegations, his Government's understanding of paragraph 7 was that efforts to coordinate the work of the special procedures and mechanisms of the Commission on Human Rights and United Nations human rights treaty bodies should not cause them to exceed their mandates. Those bodies and mechanisms were independent and since their work was highly specific, due regard should be had to confidentiality when exchanging information. As for paragraph 10, the request for the High Commissioner to conduct a study should not lead to recommendations which would impinge on the exclusive prerogatives of the Commission on Human Rights or of treaty monitoring bodies.

75. **Mr. Andrabi** (Pakistan) said that, even though his Government had not joined the sponsors of the draft resolution, it supported the text and regretted that India had called for a recorded vote. The promotion and protection of human rights must take precedence even when combating terrorism. Fighting terrorism did not entitle any country to violate human rights, particularly those of persons struggling for the attainment of their inherent right of self-determination.

76. **Mr. Schurti** (Liechtenstein) said that, since his Government had long held that it was imperative for the Third Committee to address the relationship between action to combat terrorism and the promotion and protection of human rights, it had sponsored the resolutions on that issue. Existing human rights law struck a balance between the security needs of States and human rights standards. Violating human rights for the sake of combating terrorism ultimately played into the hands of terrorist groups and was counterproductive. It was therefore gratifying to note the Counter-Terrorism Committee's increasing awareness of the inseparable link between respect for human rights standards and measures to combat terrorism. Terrorist activities had a devastating effect on the enjoyment of human rights worldwide; hence there was an urgent need for the international community effectively to address the role of non-State actors in international law in general and in the area of human rights in particular.

77. **Ms. Londoño** (Colombia) said that, while her Government fully supported draft resolution A/C.3/58/L.71, it regretted that its proposal to include a reference to article 3 of the Universal Declaration of Human Rights in relation to the victims of terrorism had not been adopted and hoped that such a reference would be incorporated in the draft resolution the following year.

The meeting rose at 6.10 p.m.